IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

MISCELLANEOUS PETITION NO.3 OF 2003

SICOM Limited Petitioner

versus

Smt.Jaya Monish Gupta & others Respondents

Shri P.V.Shah for petitioner.

Shri D.T.Palekar i/by Lambay & Co. for respondent no.4.

Shri H.N.Thakore with Ms.Agnus Bavadia i/by Thakore & Jariwalla & Associates for R-2.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 17th July 2006

PC :

1. Miscellaneous Petition No.3 of 2003 was placed before this Court for hearing and final disposal and by an order passed on 30th March 2005, the said petition has been made absolute.

2. The SICOM Limited - original petitioner, has applied for speaking to the minutes of the order passed on 30th March 2005 by this Court in the abovementioned Miscellaneous Petition.

3. As the learned Judge who had passed the order is not available, His Lordship the Hon'ble Chief Justice has assigned this matter to me.

4. All that Shri Shah appearing for the petitioner would contend in support of this application is that by inadvertence the amount on which the further interest has been granted under this Order, is not specified. So also, the final order does not specify the amount payable correctly. There is an obvious typographical error in the figure mentioned in the last paragraph. He does not desire any alteration in the order. Application is not for any substantial modification but only a formal correction to the order and for specifying the amount which would earn further interest.

5. An application was made for correction of the order passed in another Miscellaneous Application and the order was directed to be corrected by me in that matter. Further interest having been already granted, I had corrected the order by directing that it would be payable on the principal sum which was advanced by the Corporation.

6. I propose to grant the very same relief and correct the present order as well.

7. Shri Thakore appearing for first respondent-judgement debtor submits that the application is barred by laches. Secondly, the application is at the instance of an advocate who had not appeared for the petitioner when the order was passed by this Court. Thirdly, in his submission, the application of the present nature cannot be by way of speaking to the minutes of the order but the petitioner must take out appropriate proceedings.

8. I have noted these objections and I do not find merit in each of them. Miscellaneous Petition was disposed of on 30th March 2005. It is not as if the Corporation had not taken any steps. It cannot be said that the Corporation has been negligent. Therefore, the objection that the application is barred by laches, has no merit.

9. Equally, the technical plea that the earlier advocate should appear and make this application, has no merit. The application is made by the

Corporation. The earlier advocate has not appeared for seeking the clarification or correction. Nothing bars an advocate subsequently engaged to make such an application. Therefore, this objection also has no merit.

10. The last objection is about the maintainability of the oral application for speaking to the minutes. Having perused the operative part of the order and a change being sought therein, in my view, relegating the Corporation to appropriate remedies in the peculiar facts and circumstances, would not serve any purpose. The relief is not something that would involve consideration of any complicated question but a prayer for inserting figures in operative part of the order which would earn further interest. The rate of further interest is already specified. The direction to pay the same is already issued. Hence, the technical objection is required to be turned down.

11. My attention is invited by Shri Shah to para 8 of the order passed by this Court as also para 12 of the particulars of claim at pages 71 and 74 of the petition paper book.

12. Shri Shah states that when this Court had allowed the petition in terms of the prayers, then it is clear that prayer clause (a) mentions figures at pages 71 and 74. The Court has allowed Miscellaneous Petition No.3 of 2003 by rejecting all objections of the respondent on merits. Hence, when the petition is made absolute, the figures as are appearing in prayer clause (a) which are in conformity with the particulars of claims, should be inserted in the decree. This is also a consequence of the order on the main petition. Hence, it is directed that the office to draw up the decree in terms of prayer clause (a) of this petition but further interest would be payable at the rate specified in the order on the principal sum advanced. The principal sum advanced in respect of both facilities are Rs.54,09,832.00 Ps. and Rs.8,00,000/- respectively. Hence, further interest would be payable on these sums as directed above. Application for speaking to the minutes is disposed of.

(S.C.DHARMADHIKARI, J.)